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10 **Attorneys for Plaintiff**

11  
 12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**

14 TRICIA LECKLER, ON  
 15 BEHALF OF HERSELF AND  
 16 ALL OTHERS SIMILARLY  
 SITUATED,

17 PLAINTIFF,

18 V.

19 CASHCALL, INC.,

20 DEFENDANT.

CASE NO.: 3:07-CV-04002-SI  
 [CLASS ACTION]

**STIPULATION RE: (A) HEARING  
 DATE AND BRIEFING SCHEDULE  
 FOR PARTIES' CROSS-MOTIONS  
 FOR PARTIAL SUMMARY  
 JUDGMENT; AND (B) CONTINUING  
 CLASS CERTIFICATION MOTION  
 HEARING DATE AND RELATED  
 DISCOVERY AND BRIEFING  
 SCHEDULE THEREON**

HON. SUSAN ILLSTON

Proposed MSJ Hearing Date: 5/2/2008  
 Proposed Continued Class Certification  
 Motion Hearing Date: 9/5/08

Complaint Filed: 08/03/07  
 Trial Date: Not set

- 27 1. WHEREAS, the Court has previously scheduled a hearing date for  
 28 Plaintiff's class certification motion for May 2, 2008 at 9:00 a.m.;

- 1       2. WHEREAS, the Court has previously established the following briefing  
2       schedule with respect to Plaintiff's class certification motion: (a)  
3       Plaintiff's motion is due by March 28, 2008; (b) Defendant's opposition  
4       brief is due by April 11, 2008; and (c) Plaintiff's reply brief is due by  
5       April 18, 2008;
- 6       3. WHEREAS, on January 4, 2008, the Federal Communications  
7       Commission ("FCC") published a Declaratory Ruling regarding its  
8       interpretation of the phrase "prior express consent of the called party" as  
9       used in the Telephone Consumer Protection Act of 1991, 47 U.S.C.  
10      Section 227 ("TCPA"), specifically Section 227(b)(1)(a);
- 11      4. WHEREAS, Defendant contends that the FCC's Ruling is dispositive of  
12      the TCPA claims made by Plaintiff in this action and intends to move for  
13      partial summary judgment with respect to those claims;
- 14      5. WHEREAS, Plaintiff disagrees and contends that the FCC Ruling is not  
15      dispositive of her TCPA claims in this action, and Plaintiff intends to  
16      move for partial summary judgment with respect to those claims;
- 17      6. WHEREAS, the parties have stipulated to a set of undisputed facts for  
18      purposes of filing their cross-motions for partial summary judgment;
- 19      7. WHEREAS, Plaintiff and Defendant desire to have the Court rule on  
20      their cross-motions for partial summary judgment before they incur the  
21      time and expense of class discovery and briefing the class certification  
22      motion;
- 23      8. WHEREAS, whatever ruling is obtained on the parties' cross-motions  
24      for partial summary judgment may facilitate a resolution of this case;
- 25      9. WHEREAS, the Parties desire to set their cross-motions for partial  
26      summary judgment for hearing on the date originally set for the hearing  
27      of the class certification motion, May 2, 2008, and propose to continue  
28      that class certification motion hearing for approximately 120 days to

1           September 5, 2008, to allow for class discovery and briefing on the  
2           motion for class certification;

3       10. WHEREAS, the Parties have agreed to the following briefing schedule  
4           on the respective cross-motions for partial summary judgment: A. File  
5           and serve opening briefs on or before March 10, 2008;           B. File  
6           and serve opposition briefs on or before March 31, 2008;           C. File  
7           and serve reply briefs on or before April 18, 2008.

8       11. WHEREAS, the Parties have agreed to postpone conducting class  
9           discovery until after the Court rules on the parties' cross-motions for  
10           partial summary judgment; and

11       12. WHEREAS, the Parties propose a class certification motion hearing date  
12           of September 5, 2008, and based upon that date, have agreed to the  
13           following briefing schedule on Plaintiff's class certification motion:  
14                   A. File and serve opening brief on or before July 18, 2008;  
15                   B. File and serve opposition brief on or before August 6, 2008;  
16                   C. File and serve reply brief on or before August 22, 2008.

17           THEREFORE, IT IS HEREBY STIPULATED BETWEEN THE  
18           PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD  
19           THAT:

- 20                   1. The Parties' respective cross-motions for partial summary  
21                   judgment shall be heard on May 2, 2008, at 9:00 a.m.;  
22                   2. The date for the Plaintiff's class certification motion hearing  
23                   shall be continued for approximately 120 days to September 5, 2008, at  
24                   9:00 a.m.;  
25                   3. The following briefing schedule shall be followed on the  
26                   parties' respective cross-motions for summary judgment:  
27                           A. File and serve opening briefs on or before March 10, 2008;  
28                           B. File and serve opposition briefs on or before March 31, 2008;

1 C. File and serve reply briefs on or before April 18, 2008.

2 4. Based upon a proposed September 5, 2008 hearing date for the  
3 class certification motion hearing, the following briefing schedule on  
4 Plaintiff's class certification motion shall be followed:  
A. File  
5 and serve opening brief on or before July 18, 2008; B. File and serve  
6 opposition brief on or before August 6, 2008; C. File and serve  
7 reply brief on or before August 22, 2008.

8 Dated: February 27, 2008

**HYDE & SWIGART**

9 By: /s/ Joshua B. Swigart  
10 **Joshua B. Swigart,**  
11 Attorneys for the Plaintiff

12 Co-Counsel  
13

14 Douglas J. Campion  
15 **LAW OFFICES OF DOUGLAS J.**  
16 **CAMPION**

17 Dated: February 27, 2008

**FINLAYSON, AUGUSTINI & WILLIAMS,**  
**LLP**

18 By: /s/ Michael R. Williams  
19 **Michael R. Williams**  
20 Attorneys for Defendant

